

1 Scott Edward Cole, Esq. (S.B. #160744)
2 Andrew Daniel Weaver, Esq. (S.B. #318935)
3 **SCOTT COLE & ASSOCIATES, APC**
4 555 12th Street, Suite 1725
5 Oakland, California 94607
6 Telephone: (510) 891-9800
7 Facsimile: (510) 891-7030
8 Email: scole@scalaw.com
9 Email: aweaver@scalaw.com
10 Web: www.scalaw.com

11 Attorneys for Representative Plaintiff
12 and the Aggrieved Employees

13 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF SAN DIEGO**

15 KRYSTLE RUTLEDGE, individually,
16 and on behalf of all other similarly
17 situated aggrieved employees,

18 Plaintiff,

19 vs.

20 INDOCHINO APPAREL (US) INC.,
21 and DOES 1 through 100, inclusive,

22 Defendants.

Case No. 37-2019-00056684-CU-DE-CTL

**PRIVATE ATTORNEYS GENERAL ACT
COMPLAINT FOR CIVIL PENALTIES**

[CAL. LAB. CODE § 2699]

[DEMAND FOR JURY TRIAL]

23 Representative Plaintiff alleges as follows:

24 **PRELIMINARY STATEMENT**

25 1. This is a representative action seeking civil penalties under the Labor Code Private
26 Attorneys General Act of 2004, codified as California Labor Code section 2698, *et seq.* ("PAGA").
27 Plaintiff Krystle Rutledge ("Plaintiff") brings this action on behalf of herself as an aggrieved
28 employee and on behalf of all other persons similarly situated ("Aggrieved Employees") who are or
have been employed by Indochino Apparel (US) Inc. and/or Does 1 through 100, inclusive
(collectively "Defendant" or "Indochino") as non-exempt retail store employees and/or salaried
assistant managers within the State of California at any time after August 14, 2018.

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12th STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12th STREET, SUITE 1795
OAKLAND, CA 94607
TEL: (916) 851-9800

1 2. The "Relevant Time Period" is designated as the time from August 14, 2018 through
2 the date of trial and is based upon the allegation that Defendant's violations of California's wage and
3 hour laws, as described more fully below, have been ongoing during that time.

4 3. During the Relevant Time Period, Defendant has had a consistent policy of, *inter alia*,
5 (1) unlawfully denying Plaintiff and Aggrieved Employees statutorily-mandated meal and rest
6 periods, (2) willfully failing to provide Plaintiff and Aggrieved Employees with accurate
7 semimonthly itemized wage statements reflecting the total number of hours each worked, the
8 applicable deductions, and the applicable hourly rates in effect during the pay period, and (3)
9 willfully failing to pay compensation in a prompt and timely manner to those Aggrieved Employees
10 whose employment with Defendant has terminated. Plaintiff alleges Defendant committed these
11 violations against both the non-exempt and salaried Aggrieved Employees. As to the non-exempt
12 Aggrieved Employees, the basis of these claims is that Defendant understaffed its stores such that
13 the Aggrieved Employees lacked sufficient coverage to take breaks. As to the salaried assistant
14 managers, the basis of the claims is that such Aggrieved Employees were misclassified by Defendant
15 since, *inter alia*, they were not engaged in duties that meet the requirements for any exemption to
16 overtime or other employment benefits.

INTRODUCTION

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18 4. Plaintiff is informed and believes and, based thereon, alleges that, within the Relevant
19 Time Period, Defendant Indochino operated several retail establishments across California. In doing
20 so, Defendant has employed hundreds of individuals as non-exempt retail employees and/or salaried
21 assistant managers in recent years alone to work at locations within the State of California,
22 employment positions which enjoy an entitlement to full, uninterrupted and statutorily-mandated
23 meal and rest periods, as well as other benefits of employment as set forth herein.

24 5. Despite actual knowledge of these facts and legal mandates, Defendant has and
25 continues to enjoy an advantage over its competition and a resultant disadvantage to its workers by
26 electing not to sufficiently offer meal and rest periods to Aggrieved Employees, by not providing
27 them all regular and/or overtime pay when due and/or when certain Aggrieved Employees'

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SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
555 12TH STREET, SUITE 175
OAKLAND, CA 94607
TEL: (510) 891-9906

1 employment with Defendant terminated, and by willfully failing to provide Plaintiff and Aggrieved
2 Employees with accurate semi-monthly itemized wage statements.

3 6. Plaintiff is informed and believes and, based thereon, alleges that officers of
4 Defendant knew of these facts and legal mandates yet, nonetheless, repeatedly authorized and/or
5 ratified the violation of the laws cited herein.

6 7. Despite Defendant's knowledge of Plaintiff's and Aggrieved Employees' entitlement
7 to these benefits of employment, Defendant failed to provide same, for all applicable work periods,
8 in violation of California state statutes, California Industrial Welfare Commission Wage Order No.
9 7, and Title 8 of the California Code of Regulations. This action is brought to redress and end this
10 long-time pattern of unlawful conduct.

11 JURISDICTION AND VENUE

12 8. This Court has jurisdiction over Plaintiff's and Aggrieved Employees' claims for civil
13 penalties sought herein under the California Labor Code.

14 9. Venue as to Defendant is proper in this judicial district pursuant to California Code of
15 Civil Procedure section 395(a). Defendant maintains a location within the County of San Diego,
16 transacts business, has agents, and is otherwise within this Court's jurisdiction for purposes of
17 service of process. The unlawful acts alleged herein have a direct effect on Plaintiff and those
18 similarly situated within the State of California and the County of San Diego. Defendant operates a
19 facility and has employed numerous Aggrieved Employees in the County of San Diego, as well as
20 within other counties across the State of California.

21 PLAINTIFF

22 10. Plaintiff Krystle Rutledge is a natural person and was, during the relevant time period
23 identified herein, employed by Defendant as a non-exempt retail store employee, and also as a
24 salaried assistant manager, at one or more of Defendant's California locations.

25 11. At all times herein relevant, Plaintiff Rutledge was and is now an individual within
26 the category of Aggrieved Employees further described and defined herein.

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1 18. Plaintiff is informed and believes and, on that basis, alleges that, at all relevant times
2 herein-mentioned, each of the Defendants was the agent and/or employee of each of the remaining
3 Defendants and, in doing the acts herein alleged, was acting within the course and scope of such
4 agency and/or employment.

5 **REPRESENTATIVE ACTION ALLEGATIONS**

6 19. Plaintiff brings this action on behalf of herself and as a representative action on behalf
7 of the following categories of Aggrieved Employees:

8 **Non-Exempt Retail Workers**

9 *All persons who are and/or were employed as non-exempt retail workers by*
10 *Indochino Apparel (US) Inc., in one or more of its California retail stores at any time*
11 *after August 14, 2018.*

12 **Salaried Assistant Managers**

13 *All persons who are and/or were employed as salaried assistant managers by*
14 *Indochino Apparel (US) Inc., in one or more of its California retail stores at any time*
15 *after August 14, 2018.*

16 20. Defendants and their officers and directors are excluded from the category of
17 Aggrieved Employees defined in the preceding paragraph.

18 **COMMON FACTUAL ALLEGATIONS**

19 21. Defendant Indochino has, for years, knowingly failed to properly compensate
20 Plaintiff and the Aggrieved Employees for all wages earned and due (including, but not necessarily
21 limited to, overtime wages and/or compensation for missed meal and/or rest periods). Moreover,
22 Defendant has failed to provide Plaintiff and the Aggrieved Employees with net ten-minute rest
23 periods for work shifts exceeding four hours or a major fraction thereof, and has failed to provide
24 uninterrupted, unrestricted meal periods of at least 30 minutes for work shifts exceeding five hours.
25 Defendant has declined to pay these wages, even upon an Aggrieved Employee's termination or
26 resignation from employment, in blatant violation of California Labor Code §§ 201-204, inclusive.
27 More than 30 days have passed since Plaintiff and certain Aggrieved Employees have left
28 Defendant's employ.

29 22. Defendant also failed to provide Plaintiff and Aggrieved Employees with accurate
30 semimonthly itemized statements of the total number of hours worked by each, and all applicable

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
355 12th STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800

1 hourly rates in effect during each pay period, in violation of California Labor Code § 226. In doing
2 so, Defendant has not only failed to pay its workers the full amount of compensation due, it has, until
3 now, effectively shielded itself from its employees' scrutiny for its unlawful conduct by concealing
4 the magnitude (e.g., the full number of hours worked) and financial impact of its wrongdoing.

5 23. As a direct and proximate result of Defendant's unlawful conduct, as set forth herein,
6 Plaintiff and Aggrieved Employees are entitled to penalties pursuant to Labor Code § 2699 *et seq.*
7 for the violations described above including uncompensated hours worked, missed meal periods, and
8 missed rest periods, in an amount to be established at trial. As a further direct and proximate result of
9 Defendant's unlawful conduct, as set forth herein, Plaintiff and Aggrieved Employees are entitled to
10 recover penalties for failure to provide semimonthly itemized wage statements of hours worked and
11 all applicable hourly rates (in violation of California Labor Code § 226) in an amount to be
12 established at trial. As a further direct and proximate result of Defendant's unlawful conduct, as set
13 forth herein, Plaintiff and Aggrieved Employees are also entitled to recover attorneys' fees, litigation
14 costs, and restitution of ill-gotten gains, pursuant to statute.

15 24. Plaintiff complied with the procedures for bringing suit specified in California Labor
16 Code § 2699.3. By letter dated August 14, 2018, Plaintiff gave written notice to the Labor and
17 Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the
18 California Labor Code alleged to have been violated, including the facts and theories to support
19 these violations.

20 **FIRST CAUSE OF ACTION**
21 **PRIVATE ATTORNEYS GENERAL ACT CLAIM**
22 **(California Labor Code §§ 2699)**

23 25. Plaintiff incorporates in this cause of action each and every allegation of the
24 preceding paragraphs, with the same force and effect as though fully set forth herein.

25 26. California Labor Code § 2699(a) states:

26 Notwithstanding any other provision of the law, any provision of this code that
27 provides for a civil penalty to be assessed and collected by the Labor and Workforce
28 Development Agency or any of its departments, divisions, commissions, boards,
agencies, or employees, for a violation of this code, may, as an alternative, be
recovered through a civil action brought by an aggrieved employee on behalf of
himself or herself and other current or former employees...


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JURY DEMAND

Plaintiff and the Aggrieved Employees hereby demand trial by jury of all issues trial as of right by jury.

Dated: October 24, 2019

SCOTT COLE & ASSOCIATES, APC

By: 
Andrew D. Weaver, Esq.
Attorneys for the Representative Plaintiff
and the Aggrieved Employees

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
535 12th STREET, SUITE 1725
OAKLAND, CA 94607
TEL: (510) 891-9800